

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

MDL No. 2323
No. 12-md-2323-AB

THIS DOCUMENT RELATES TO:

CIVIL ACTION
Case No. 2:12-cv-1024

LARRY BARNES, et al.

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE, et al.,

Defendants.

**RIDDELL DEFENDANTS' NOTICE OF MOTION AND
MOTION TO SEVER PURSUANT TO FRCP 20 AND 21; EXHIBIT "A"**

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EASTON-BELL SPORTS, INC.; EASTON-BELL SPORTS, LLC;
EB SPORTS CORP.; and RBG HOLDINGS CORP.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LARRY BARNES, et al.,

Plaintiffs,

vs.

NATIONAL FOOTBALL LEAGUE, et
al.,

Defendants.

CASE NO.: CV 11-8396 R (MANx)

**RIDDELL DEFENDANTS' NOTICE
OF MOTION AND MOTION TO
SEVER PURSUANT TO FRCP 20
AND 21; EXHIBIT "A"**

Date: January 17, 2012

Time: 10:00 a.m.

Dept: Courtroom 8

Judge: Hon. Manuel L. Real

Notice of related cases:

No. CV 11-08394 R (MANx)

No. CV 11-08395 R (MANx)

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA AND ALL PARTIES AND
THEIR COUNSEL OF RECORD HEREIN:**

PLEASE TAKE NOTICE THAT on January 17, 2012 or as soon thereafter as the matter may be heard in Courtroom 8 of the United States District Court, Central District of California, Western Division, located at 312 N. Spring Street, Los Angeles, California 90012, Defendants Riddell, Inc. (erroneously styled as “d/b/a Riddell Sports Group, Inc.”); All American Sports Corporation; Riddell Sports Group, Inc.; Easton-Bell Sports, Inc.; Easton-Bell Sports, LLC; EB Sports Corp.; and RBG Holdings Corp. (collectively, the “Riddell Defendants”)¹ will move the Court for an order pursuant to Rules 20 and 21 of the Federal Rules of Civil Procedure (“FRCP”) to sever from each other the claims of the named Plaintiffs who have been misjoined in this action and to require each of them to file separate complaints in separate actions, or for such other relief as the Court deems appropriate to address the misjoinder of these claims. The Riddell Defendants base this motion on the grounds that: (1) the named Plaintiffs' rights to relief do not each arise out of the same transaction, occurrence, or series of transactions or occurrences; (2) their claims lack common questions of law and fact; and (3) even if the claims were properly joined - which they are not - this Court should nonetheless sever them to prevent prejudice, delay, jury confusion, and judicial inefficiency.

The Riddell Defendants refer this Court to their Memorandum of Points and Authorities in support of its Motion to Sever Pursuant to FRCP 20 and 21 filed in the related case, *Vernon Maxwell, et al. v. National Football League, et al.* (Case

¹Referring to these Defendants collectively does not imply or concede that they are properly joined or named as Defendants, and the “Riddell Defendants” reserve the right to move to dismiss some or all of them. The collective reference is merely for convenience.

No. 11-8394 R (MANx)), on December 20, 2011, since the *Barnes* action is largely identical to the *Maxwell* action. The Riddell Defendants incorporate that memorandum and those arguments from *Maxwell* as if made fully herein, except as specifically noted therein.¹ The Riddell Defendants further base this Motion on the pleadings, records, and files in this action, and such other and further evidence and argument as may be presented at the time of the hearing.

In the *Barnes* action, the sixteen (16) player-Plaintiffs allege that they currently reside in seven (7) different states and played for twenty-two (22)² different NFL teams in different cities and states during their careers which encompass approximately six decades from 1953 (Plaintiff Rudolph Bukich) to 2005 (Plaintiff Michael Cloud). (*See generally Barnes* Second Am. Compl.) The player-Plaintiffs' injuries range from "memory loss, headaches, and sleeplessness" (*id.* ¶ 128 (Plaintiff Wenzel)), to "premature death" (*id.* ¶ 138 (Plaintiff Lens)).

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¹ A true and correct copy of the Riddell Defendants' Memorandum of Points and Authorities in support of its Motion to Sever Pursuant to FRCP 20 and 21 filed in the related case of *Vernon Maxwell, et al. v. National Football League, et al.* (Case No. 11-8394 R (MANx)), on December 20, 2011, is attached hereto as Exhibit "A."

² The Cardinals franchise moved cities during the course of the 50-plus-year period covered by the Complaint. Thus, counting the St. Louis Cardinals as a different team from the Arizona Cardinals brings the total number of different teams to twenty-three (23).

1 This Motion is made following the conference of counsel pursuant to L.R. 7-
2 3 which took place on November 7, 2011.

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5 DATED: December 20, 2011

BOWMAN AND BROOKE LLP

6
7 By /s/ Paul G. Cereghini

8 Paul G. Cereghini

9 Vincent Galvin

10 Marion V. Mauch

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12 INC.; ALL AMERICAN SPORTS

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15 BELL SPORTS, INC.; EASTON-

16 BELL SPORTS, LLC; EB SPORTS

17 CORP.; and RBG HOLDINGS

18 CORP.